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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,544	08/14/2001	John L. Kuykendall	488-186	9801

7590 05/10/2004

Gerald Levy, Esq.  
PITNEY, HARDIN, KIPP & SZUCH LLP  
685 Third Avenue  
New York, NY 10017-4059

EXAMINER
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MICHALSKI, JUSTIN I

ART UNIT	PAPER NUMBER
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2644

5

DATE MAILED: 05/10/2004

*Restart*

Please find below and/or attached an Office communication concerning this application or proceeding.



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# Office Action Summary

Application No.

09/929,544

Applicant(s)

KUYKENDALL ET AL.

Examiner

Justin Michalski

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Schweitzer (US Patent 5,259,232).

Regarding Claim 1, Schweitzer discloses a sliding control apparatus (Figure 1) including: at least one guide rod (rod 30); a slider assembly (assembly mounted to structure 24) including at least one partially open passageway for slidably traveling on said at least one guide rod (Figure 1 discloses passageway for structure 24 to travel on rod 30); and a tension plate (tension block 106) mounted adjacent to said at least one partially open passageway so as to bear upon said guide rod (Schweitzer discloses tension block places tension on slider 30) (Column 6, lines 3-7), said tension plate being mounted so as to impinge against said guide rod with a variable amount of force thereby varying frictional resistance between said slider assembly and said at least one guide rod (Schweitzer discloses adjustable (i.e. variable) tension (Column 6, lines 3-7).

Regarding Claim 2, Schweitzer further discloses tension plate (tension block 106) includes a first aperture (Figure 1, coverpan 95, aperture on opposite end of lip 98 to receive bolt 102) and is mounted in a recess in said slider assembly (Figure 1 and geometry of coverpan 95 disclose aperture end of coverpan 95 mounted in a recess),

said recess including a second aperture (aperture in plate 104 for receiving bolt 102), said second aperture being aligned with said first aperture and a screw (bolt 102) passing therethrough, wherein the variable amount of force is varying by varying an extent of insertion of said screw into said second aperture (Schweitzer discloses adjustable tension on slider 30 by bolt 102) (Column 6, lines 1-7).

Regarding Claim 3, Schweitzer further discloses a handle (Figure 1, handle 14) extending from slider assembly.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schweitzer as applied to claim 3 above, and further in view of Yochum et al. (US Patent 4,429,219).

Regarding Claim 4, Schweitzer discloses an apparatus as stated apropos of claim 3 above but does not disclose a shutter controlled by position of slider. Yochum et al. discloses a fader which contains means for controlling the position of a slide (Figures 3 and 4). Yochum discloses a shutter (Figure 3, shutter 24) extending from a lower portion of a slider assembly. Yochum further discloses the shutter is used to determine the position of a movable member (Column 1, lines 57-59). Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to include a shutter attached to the slider assembly to determine the position of a movable member.

5. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schweitzer as modified as applied to claim 4 above, and further in view of Breitbarth (US Patent 5,986,584).

Regarding Claim 5, Schweitzer as modified discloses an apparatus as stated apropos of claim 4 above but does not disclose two guide rods. Breitbarth discloses a fader with means for controlling the position of a slide (Figure 1) including two guide rods (rails 14 and 16). Breitbarth further discloses the rails are used to support the lever body and constrain its movement to the translational directions (Column 4, lines 17-22). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include two guide rods to support the movement of the slider device.

Regarding Claim 6, Breitbarth further discloses guide rods (rails 14, and 16) are supported by a structure (Figure 1) and a slot (slot 30) through which handle (handle 20) extends.

Regarding Claim 7, Breitbarth further discloses cross fader apparatus (Figure 1) where position of slider assembly along first and second guide rods controls the fader apparatus.

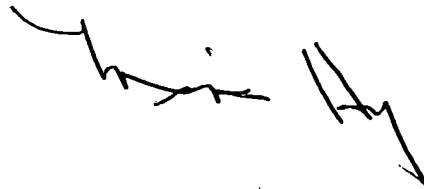
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (703)305-5598. The examiner can normally be reached on 8 Hours, 5 day/week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

JIM



**MIN SUN OH HARVEY  
PRIMARY EXAMINER**